

REMARKS

Claims 5, 6, and 9 are pending, with claims 5 and 9 being currently amended.

Applicants' undersigned representative gratefully acknowledges Examiner's courtesies extended during the telephonic interview held on April 21, 2009. During that interview, Applicants' representative discussed with Examiner the 35 U.S.C. §112 and §102 rejections in the outstanding Official Action, dated February 25, 2009, as pertaining to pending claims 5, 6, and 9. Concerning the §112 rejections, Applicants' representative submitted that sufficient support exists in the original application for use of the presently rejected claim language. And, with respect to the §102(a) rejection based on JP 2005 229825 ("the JP '825 reference"), Applicants' representative submitted that the JP '825 reference is unavailable as prior art. In view thereof, Examiner advised Applicants' representative to prepare a response citing to the support in the application for use of the rejected claim language and to further explain therein why the Japanese reference is not available as prior art. Applicants do just that hereinbelow.

In the Official Action, claims 5, 6, and 9 stand newly rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In rejecting the claims, Examiner alleges that there is no support in the original specification for the following amended claim language: "one end which is connected to an outlet of the cooling device" (claim 5, line 8), "from the cooling device" (claim 5, line 9), "is put into a mold form comprising a coating material made of fluorocarbon resin...configured to be" (claim 5, lines 12-13), "when immersed" (claim 5, lines 16-17), etc. As a result, Examiner asserts that new matter has been added to the claims. *See* Official Action at Page 2. Applicants respectfully disagree, particularly in view of independent claim 5 as currently amended, as is discussed next.

In view of the §112 rejections, independent claim 5, which is the only independent claim, has been amended to more clearly define the invention. In particular, the amendments can

be classified into two kinds, one of which relates to 1) the "carrying out pipe" and another of which relates to 2) the "mold form" of the transducer.

1) "Carrying out pipe"

The carrying out pipe is denoted in Fig. 1 as numeral 9. The present specification recites "a carrying out pipe 9 for carrying out process cheese type which is already emulsified, one end of which is connected to an outlet of the cooling chamber 8. *See* page 6, lines 9-10 and page 8, lines 3-4. In an effort to more clearly define the invention, the phrase "carrying out pipe" in independent claim 5 has been amended to recite a "carrying pipe", which has been further defined by specifying that "one end of which is connected to an outlet of the cooling device, and another end of which leads toward a molding and filling equipment". Support for the amendments can be found throughout the specification and at least at page 6, lines 9-10; page 8, lines 3-4; page 7, lines 3-6; and Fig. 1.

In addition, Applicants have deleted the offending language "one end which is connected to an outlet of the cooling device" (claim 5, line 8) and "from the cooling device" (claim 5, line 9), as it pertains to the carrying pipe.

2) The "mold form"

The present specification states that "the transducer is put into a mold form (coating material) made of fluorocarbon resin" and is "immersed in the process cheese type so as not to directly contact the process cheese type". *See, e.g.*, page 10, lines 20-22 and page 11, lines 12-13. In view thereof, independent claim 5 has been amended to more clearly define the invention by reciting a transducer that "is put into a mold form made of fluorocarbon resin and is immersed in the type of process cheese". As a result, the offending language "is put into a mold form comprising a coating material made of fluorocarbon resin...configured to be" (claim 5, lines

12-13) is submitted to clarified. In addition, Applicants have deleted the offending language "when immersed" (claim 5, lines 16-17).

In view of the foregoing, Applicants submit that no new matter has been added to independent claim 5. Accordingly, claims 5, 6, and 9 are not at all indefinite. Thus, the §112 rejection is in error and must be withdrawn.

Also in the Official Action, Examiner rejects claims 5, 6, and 9 under 35 U.S.C. §102(a) as being anticipated by the JP '825 reference. *See* Official Action at Pages 2-3. Applicants respectfully disagree with the rejections at least because the JP '825 reference is unavailable as prior art, as explained next.

Applicants' note that the publication date of the JP '825 reference is September 2, 2005. In comparison, the filing date of the present application is March 7, 2005, which is earlier than the publication date of the JP '825 reference. And because the filing date of the present application is before the publication date of the JP '825 reference, the JP '825 reference cannot be available as prior art. As such, the rejection of claims 5, 6, and 9 over the JP '825 reference is in error and must be withdrawn.

Conclusion

As a result of the remarks given herein, Applicants submit that the rejections of the pending claims have been overcome. Therefore, Applicants respectfully submit that this case is in condition for allowance and request allowance of the pending claims.

If Examiner believes any detailed language of the claims requires further discussion, Examiner is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved. Applicants also have submitted all fees believed to be necessary herewith. Should any additional fees or surcharges be deemed necessary, Examiner has authorization to charge fees or credit any overpayment to Deposit Account No. 23-3000.

Respectfully submitted,

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